

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARIA ELENA ESCAMILLA

§

Plaintiff

§

VS.

CIVIL ACTION NO. 4:19-cv-4518

MIC GENERAL INSURANCE CORP.

§

Defendant

§

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441 (DIVERSITY)**

Pursuant to 28 U.S.C. §1441, Defendant MIC General Insurance Corporation ("MIC") removes this action to the United States District Court for the Southern District of Texas, Houston Division. The basis for removal is that diversity jurisdiction exists.

I. BACKGROUND

1. On August 21, 2019, Plaintiff filed her original petition in a lawsuit styled *Maria Elena Escamilla v. MIC General Insurance Corporation*, Cause No. 2019-58472. The case was assigned to the 190th Judicial District Court in Harris County, Texas, and is hereafter referred to as "the state court action." True and correct copies of all of the state court process, pleadings, and orders within the scope of Local Rule LR 81 are attached to this notice.

2. Plaintiff's petition alleges that MIC committed various wrongful acts during the investigation, processing and payment of an insurance claim made by Plaintiff. MIC denies Plaintiff's claims. Further, MIC denies that Plaintiff has standing and denies that this Court has subject matter jurisdiction.

3. Federal jurisdiction is based upon complete diversity of citizenship in accordance with 28 U.S.C. §1332. There is complete diversity among the parties properly joined in this action both at the time that Plaintiff filed the state court action, and at the time of removal.

4. MIC received a copy of Plaintiff's petition on October 25, 2019.

II. GROUNDS FOR DIVERSITY JURISDICTION

5. Removal is authorized because the state court action is a civil action in which this Court has original jurisdiction under 28 U.S.C. §1332. In addition, MIC can remove the state court action to this Court pursuant to 28 U.S.C. §1441(b). The state court action is a civil action between citizens of different states and/or countries and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

A. CITIZENSHIP OF THE PARTIES

6. On information and belief, based on the allegations in Plaintiff's petition in the state court action, Plaintiff is now, and was at the time the state court action was commenced, a citizen and resident of Texas.

7. Defendant MIC General Insurance Corporation is now, and was at the time the state court action was commenced, a citizen of Michigan and North Carolina. MIC was and is incorporated in Michigan and its principal place of business was and is in North Carolina.

B. AMOUNT IN CONTROVERSY

8. Plaintiff's claims against MIC exceed the sum of \$75,000.00, exclusive of interest and costs. Plaintiff's original petition states, at paragraph 2, that Plaintiff seeks monetary damages "over \$200,000 but not more than \$1,000,000."

9. Therefore, it is facially apparent from Plaintiff's state court petition that the amount in controversy exceeds the \$75,000.00 jurisdictional threshold.

C. VENUE

10. The state court action may be removed to the District Court for the Southern District of Texas, Houston Division, because this is the United States District Court for the district and division within which the state court action was pending. 28 U.S.C. §1446(a).

D. TIMELY REMOVAL

11. This notice of removal is timely because it is being filed within thirty days of the date that MIC received a copy of Plaintiff's state court petition. 28 U.S.C. §1446(b).

E. NOTICE OF FILING

12. Counsel for MIC will serve a copy of this notice of removal on counsel for Plaintiff, and will file a copy with the clerk of the 190th Judicial District Court of Harris County, Texas, where the state court action was pending, in accordance with the provisions of 28 U.S.C. §1446(d).

F. CONSENT TO REMOVAL

13. All properly joined defendants that have been served as of the date of this filing consent to and join in this removal.

G. COMPLIANCE WITH LOCAL RULES

14. Pursuant to Local Rule LR 81, all executed process in the case is attached as Exhibit A; all pleadings asserting causes of action and all answers to these pleadings are attached as Exhibit B; all orders signed by the state judge are attached as Exhibit C (although there are none); the state court docket sheet is attached as Exhibit D; an index of matters being filed is attached as Exhibit E; and a list of all counsel of record, including addresses, telephone numbers and parties represented is attached as Exhibit F.

III. CONCLUSION

15. MIC removes this action from the 190th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, requests that this Court assume full jurisdiction of this cause as if it had originally been filed here and also requests that further proceedings in the state court action be stayed. MIC also respectfully requests any other relief to which it may be entitled.

Respectfully submitted,

THE LITTLE LAW FIRM, P.C.

/s/ Joseph R. Little

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Attorney in Charge for Defendant MIC General Insurance Corporation

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been served on all counsel of record in accordance with the Federal Rules of Civil Procedure on the 18th day of November, 2019.

/s/ Joseph R. Little

Joseph R. Little